

OLC 73-0619/A

20 JUN 1973

On file, DOD&OMB release instructions apply.

Mr. Wilfred H. Rommel
Assistant Director for
Legislative Reference
Office of Management and Budget
Washington, D. C. 20503

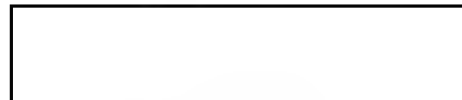
Dear Mr. Rommel:

This is in reply to your request of 25 May 1973 for our views on Department of Defense's proposed report on S. 1520, "to establish a commission to study all laws, executive branch rules, regulations, orders, and procedures, relating to the classification and protection of information...."

We concur in the Defense recommendations that no action be taken on S. 1520, and for substantially the same reasons as given by Defense. In addition, we are concerned that the proposed commission might override a decision of the Director of Central Intelligence not to declassify certain information relating to intelligence sources and methods, protection of which is a statutory responsibility of the Director.

STATINTL

Sincerely,



John M. Maury
Legislative Counsel

Distribution:

Original - Addressee

1 - OGC

1 - D/Security

① - OLC Subject

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CONFIDENTIAL

SECRET

ROUTING AND RECORD SHEET

SUBJECT: (Optional)

Department of Defense's Proposed Report on S.1520

FROM:

Director of Security
Room 4 E-60

EXTENSION

NO.

25X1

DATE

TO: (Officer designation, room number, and building)

STATINTL

DATE

RECEIVED

FORWARDED

OFFICER'S
INITIALS

COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)

1. Legislative Counsel
Attn:

10GC

STATINTL

3.

STATINTL

4.

OLC/

5.

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10.

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13.

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15.

2. Any further comments?
3 to 4. Nothing further. Believe
OS and DOD just about
right. RHL.

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ADMINISTRATIVE
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14 JUN 1973

MEMORANDUM FOR: Legislative Counsel

STATINTL

ATTENTION :

SUBJECT : Department of Defense's proposed report on S. 1520, "To establish a commission to study all laws, and executive branch rules, regulations, orders, and procedures, relating to the classification and protection of information for the purpose of determining their consistency with the efficient operation of the Government, including the proper performance of its duties by the Congress, and for other purposes."

1. Reference is made to your telephonic request of 12 June 1973 for Office of Security views concerning the Department of Defense's proposed report on S. 1520.

2. This Office concurs fully in the DOD report. Like the Department of Defense, the Agency has also implemented Executive Order 11652 and thus is achieving the objectives set forth in S. 1520.

3. It would be of concern if the commission recommended that Congress establish by law an independent agency with the power to override a DCI decision not to declassify certain documents because they might disclose sources and methods.

4. Please advise if any additional data are desired.

STATINTL

Howard J. Osborn
Director of Security

ADMINISTRATIVE
INTERNAL USE ONLY

14 JUN 1973

MEMORANDUM FOR: Legislative Counsel

STATINTL

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SUBJECT : Department of Defense's proposed report on S. 1520, "To establish a commission to study all laws, and executive branch rules, regulations, orders, and procedures, relating to the classification and protection of information for the purpose of determining their consistency with the efficient operation of the Government, including the proper performance of its duties by the Congress, and for other purposes."

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STATINTL

Howard J. Osborn
Director of Security

ADMINISTRATIVE
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OLC 73-0619

May 25, 1973

LEGISLATIVE REFERRAL MEMORANDUM

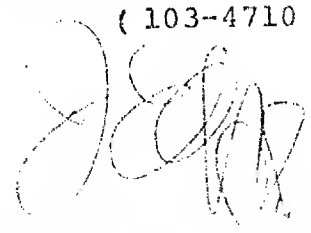
To: Legislative Liaison Officer
National Security Council
Department of State
National Archives
Central Intelligence Agency

Subject: Department of Defense's proposed report on S. 1520,
"To establish a commission to study all laws, and
executive branch rules, regulations, orders, and
procedures, relating to the classification and pro-
tection of information for the purpose of determining
their consistency with the efficient operation of
the Government, including the proper performance of
its duties by the Congress, and for other purposes."

The Office of Management and Budget would appreciate
receiving the views of your agency on the above subject
before advising on its relationship to the program of the
President, in accordance with Budget Circular A-19.

- (X) To permit expeditious handling, it is requested
that your reply be made within 30 days.
- () Special circumstances require priority treatment
and accordingly your views are requested by

Questions should be referred to Bill Dinsmore
(103-3468) or to Janis Humphrey (103-4710),
the legislative analyst in this office.


Assistant Director for
Legislative Reference



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GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE

WASHINGTON, D. C. 20301

Honorable Sam J. Ervin, Jr.
Chairman, Government Operations Committee
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

This is in response to your request for the views of the Department of Defense with respect to S. 1520, 93d Congress, a bill "To establish a commission to study all laws, and executive branch rules, regulations, orders, and procedures, relating to the classification and protection of information for the purpose of determining their consistency with the efficient operation of the Government, including the proper performance of its duties by the Congress, and for other purposes."

Upon completion of a year long study of the security classification program, the President issued Executive Order 11652, Classification and Declassification of National Security Information and Material on March 8, 1972. On May 17, 1972, National Security Council "Directive Governing the Classification, Downgrading, Declassification and Safeguarding of National Security Information" was issued supplementing the Order. The Order and the Directive, both of which became effective June 1, 1972, effected substantial changes in the classification, downgrading, declassification and safeguarding system. The basic thrust of the Order is to assure that information regarding the affairs of Government is made readily available to the public to the maximum consistent with the interests of national security. To this end, the intended effect of the Order is to classify less, declassify sooner and provide better protection for the material which truly requires protection.

A significant provision of Executive Order 11652 created the Interagency Classification Review Committee to provide a means for centralized oversight of the implementation of the Order. More specifically, this Committee is charged with overseeing departmental actions to ensure compliance with the Order and the National Security Council Directive, receiving and taking action on suggestions and complaints with respect to administration of the Order, and, in consultation with the affected Department or Departments,

assuring that appropriate action is taken on such suggestions and complaints. The Committee is also charged with seeking to develop means to (a) prevent overclassification, (b) ensure prompt declassification, (c) facilitate access to declassified material and (d) eliminate unauthorized disclosures of classified information.

On April 24, 1973, the Interagency Classification Review Committee submitted to the President its first Progress Report, providing an evaluation of progress achieved during the first ten months of operations under the Executive Order 11652. In this report, which has been made public, substantial developments and achievements are reported. As the Committee notes, however, the real test of the success of the Order, will require a longer time span in view of the extensive changes which the Order made.

In the Interagency Committee's report, specific reference is made to certain activities and accomplishments of the Department of Defense. In addition, the Department has taken other significant steps to ensure effective implementation of and compliance with Executive Order 11652 and the National Security Council Directive. Pursuant to Department of Defense Directive 5200.1, dated June 1, 1972, Department of Defense Information Security Program Regulation 5200.1-R was issued providing uniform principles, policies, criteria, standards and procedures for the classification, downgrading, declassification, marking and safeguarding information requiring protection from unauthorized disclosure in the interest of national security. This Regulation has been distributed worldwide, and applies to all activities of the Department of Defense.

The Department has set up a broad and active monitorship of the Program. On-the-site surveys are being conducted of the operations of various elements of the Department and in defense industrial facilities. From these surveys, useful innovations for the betterment of the Program and precautionary measures to preclude improper actions are identified and summarized and sent to all elements of the Department. Commands are requested to advise of the steps taken by them to correct deficiencies and to improve the effectiveness of administration of the Program.

In addition to educational and training programs conducted at the operational level, steps have been taken to establish formal resident and mobile training courses department-wide. These courses will provide comprehensive

and detailed instructions covering all phases of the Information Security Program. They will be available to Government and industry personnel at management and operational levels. Also they will form the basis for the development of on-the-job training materials and for locally instituted training sessions for all persons who are responsible for the correct application of established principles in day-to-day operations.

With respect to requests for release of information under the Freedom of Information Act, the Department of Defense is now staffing with the Military Departments a number of proposed changes to the governing Departmental Directive. The proposed revisions are for the purpose of implementing Recommendation No. 24 of the Administrative Conference of the United States which provides for improvements in the administration of the Act, including time limits for responding to requests. The proposals also incorporate recommendations from the Congress, and judicial interpretations of the Act.

In light of these developments, the Department of Defense believes that significant progress has already been made in achieving the objectives which the National Commission would address. Consequently, the Department of Defense recommends that no action be taken on the bill.

The Office of Management and Budget advised that, from the standpoint of the Administration's program, there is no objection to the presentation of this report for the consideration of the Committee.

Sincerely yours,

J. Fred Buzhardt